[Mr. K. G. Kunjukrishna Pillai]

Title and Preamble.

The question that the title and preamble do stand part of the bill was put and carried.

The title and preamble were added to the bill.

MR. K. G. KUNJUKRISHNA PILLAI: I move that in section 1, sub-section 1, after the figures "111", the figure "9" be added.

The motion was passed.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the bill be passed.

The motion was put and carried.

THE TRAVANCORE HIGH COURT ACT (AMENDMENT) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, when the House adjourned last time, my honourable friend, Mr. T. K. Velu Pillai, was moving that the bill be re-committed.

SADASYATILAKA T. K. VELU PILLAI: Sir, my proposal was that the bill should be recommitted to the Select Committee. I shall proceed to give the reasons. Form and regularity of proceedings are all essential to legislative propriety.

The preamble says that the High Court Act is to be amended for certain purposes. In the Objects and Reasons we find the statement made——

MR. K. R. NARAYANAN: Sir, on a point of order. ഇതു് റീകമ്മിറൽ ചെയ്യണമെന്നു അദ്ദേഹം പറയുന്നു. സിലക്ഴ് കമ്മറ്റി മെമ്പറായിരുന്ന ഒരാൾക്കു റീകമ്മിറൽ ചെയ്യണമെന്നു പറയാൻ അവകാശമുണ്ടോ

SADASYATILAKA T. K. VELU PILLAI: That is my view, and I believe it is the view of others as well. So I did not think it necessary to move in that matter.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, on a point of order again. On a motion for reconsidering the Bill I am not able to lay my hands on any ruling of this House. But I would invite a ruling from the Chair elsewhere. There are two Rulings in the Indian Legislative Assembly which indicate the lines on which a motion for recommittal may be made. They state in the following terms.

SADASYATILAKA T. K. VELU PILLAI: But, Sir, it is a belated objection.

MR. K. G. KUNJUKRISHNA PILLAI: In the proceedings of the Legislative Assembly dated the 25th February 1924 on pages 928 to 930 and reported in the "Select Decisions of the Chair" published from page 81 onwards (1924 publication) is found the relevant portion.

This ruling was endorsed by a subsequent ruling reported in the Legislative Assembly Debates at page 568 of Vol. IV. There the same question arose. Whether an honourable member who was a member of the Select Committee could move for a recommittal was ruled by the President thus:

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PRESIDENT: Order, order. The question of order that has been raised by the Legal Remembrancer has been raised somewhat prematurely. No motion for recommittal can be sponsored by any person unless he can establish a *prima facie* case that the Select Committee which has already dealt with the matter has gone wrong in some fundamental particular, in other words, that it has either abdicated or not exercised the duties vested in it by law. I am waiting to learn from the speech of the honourable member what he is proposing to say with regard to the behaviour of the Select Committee and, at this stage, I can only take it that Mr. Velu Pillai will put forward arguments to the effect that the Select Committee did not do its duty properly and therefore he wants this chance. I am also waiting to hear whether in any such procedural or substantive mistake that was committed by the Select Committee, the honourable member had the opportunity and the chance of pointing out this fundamental error, and, if I find that he did not do so, then, the question of protection of the House from a dilatory motion arises. At this moment it is premature.

MR. C. JEBAMONY NADAR: Sir, again, on a point of order. Independent of the point of order raised by another honourable member I want to draw the attention of the chair to Section 98 of our Assembly Rules which says that a member in charge of the Bill can move for a recommittal.

PRESIDENT: That is not a correct view.

SADASYATILAKA T. K. VELU PILLAI: As a ruling has already been given I do not propose to answer that point, Sir.

TO PRESIDENT: But the ruling is that I am waiting to learn what mistakes were committed by the Select Committee.

SADASYATILAKA T. K. VELU PILLAI: I shall proceed to state these mistakes presently. But before tackling them I have to point out how far a Select Committee member can deal with them. In the statement of objects and reasons it is stated thus:

> "The need has always been felt of investing the High Court with original jurisdiction to be exercised in special circumstances so as to enable the High Court to try original cases, civil and criminal. In 57 T. L. R. 420 F. B. the view has been expressed that the High Court has no original jurisdiction in civil cases at all, and that it has only very limited original jurisdiction in criminal cases. The same ruling also has pointed out the defects in the Section which confers powers on the High Court to be exercised during the annual recess and during consecutive holidays.
>
> The Bill is intended to provide for these two cases. It empowers the High Court to withdraw and try any case, civil or criminal, if it deems necessary. It also gives powers to be exercised during vacation so as to enable the High Court to make urgent interim orders, consequential amendments necessary both in the Code of Civil Procedure and in the Code of Criminal Procedure made in the Code of Civil Procedure (Amendment) Bill and in the Code of Criminal Procedure (Amendment) Bill."

PRESIDENT: That is not in order. The question of referring to the statement of objects and reasons is not in order. But that must have been considered in the Select Committee. Was not that considered in the Select Committee?

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SADASYATILAKA T. K. VELU PILLAI: It was not considered.

PRESIDENT: The honourable member says that the statement of objects and reasons was not considered. Did the honourable member raise that question, Mr. K. G. Kunjukrishna Pillai?

MR. K. G. KUNJUKRISHNA PILLAI: Sir, he was not present in the Select Committee.

PRESIDENT: Did the honourable member raise the subject of the mistake in the statement of objects and reasons?

SADASYATILAKA T. K. VELU PILLAI: Sir, my submission is this. These are rulings in this country that a member of the Select Committee, though he entertains and accepts one idea in the committee, can change it as a member of this House.

PRESIDENT: It is perfectly true that a member of the Select Committee and who is a party to the committee can vote against the Bill. There is no doubt that he can have a change of opinion from the time of the formulation of the Select Committee up to the time when the voting takes place. To rule otherwise would be to deny the right of persuasion As I said, every member of the House, until the last moment of voting, is entitled to change his opinion. The only question now is what was it that was followed in the Select Committee. The honourable member will address himself to that.

SADASYATILAKA T. K. VELU PILLAI: Yes, Sir. With regard to my absence in the Select Committee it is not true. There was a ruling by you, Sir.

PRESIDENT: What passed in the Select Committee should not be referred to

SADASYATILAKA T. K. VELU PILLAI: It is a very difficult matter, especially when a motion for recommittal is made, absolutely not to refrain from saying what took place in the committee.

PRESIDENT: But the very condition of moving a motion for recommittal involves the position that the honourable member who is making that motion should be enabled to give sufficient particulars to the House to justify a motion for recommittal. In other words, supposing the committee met and decided to finish the business by saying that there is very little objectionable matter in the Bill. In that way they decide to approve the bill. In such circumstances, it is open to the honourable member to say that, notwithstanding the fact that the proceedings of the committee are confidential, full discussion on the bill has not taken place.

SADASYATILAKA T. K. VELU PILLAI: Sir, I may say that I had the opportunity to attend the committee though I was for a while not present.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, when this bill was being considered, the honourable member was not present.

SADASYATILAKA T. K. VELU PILLAI: It is absolutely wrong, Sir.

PRESIDENT: I do hope that honourable members even if it becomes essential or necessary will not contradict themselves on matters of fact. It is much better to deal with matters of principle After all,

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what does it matter whether a member was present or not at a particular time? But if he can show that there was something fundamentally wrong about the committee's procedure, I am ready to hear that aspect of the matter,

SADASYATILAKA T. K. VELU PILLAI: Sir, I am not accustomed to recriminate. Throughout the whole course of my career I have not been shirking my duties either. That much I have to say at this juncture.

PRESIDENT: I am sorry, the fact that you did not attend the committee does not show that you have shirked work,

SADASYATILAKA T. K. VELU PIPLAI: I was present in the committee. The fact that all this should happen as if this were a court of law, is not necessary.

PRESIDENT: Many of us are lawyers; we cannot avoid such things happening.

SADASYATILAKA T. K. VELU PILLAI: So that, I may say I was present. I raised an objection when the other members were present. I shall try to show from the dissenting minute of mine, certain facts. I have said that I am for dropping the bills except clause 4 of the High Court Act. The High Court Act is faulty in several ways. The present bill contemplates changes which according to me do not go far. A consolidating bill has to be introduced in the Assembly. Now, Sir, the Preamble as you know is the last thing to be considered. Before the proceedings were over, I was there in the house, in the Select Committee, along with the other members. It is a most elementary law which the Legal Remembrancer has known that the Preamble is settled as the last item in all legislative bodies, because unless all the clauses are considered, it will be difficult to frame it. May's Parliamentary Practice also accords that view. He says that unless all the clauses are settled a proper Preamble cannot be framed. So, my friend's argument means that he is putting the cart before the horse. What is the meaning, Sir, of working down from the Preamble? From the clauses, we are to work up to the Preamble. So that, when I assure the House that I was there before the discussion was over and when I have stated 'subject to my dissenting note', my friend's objection falls to the ground. In that view, Sir, without taking up further time of the House, I wish to submit one or two words.

PRESIDENT: Again what was the mistake made by the Committee?

SADASYATILAKA T. K. VELU PILLAI: When I was at the question of the Statement of Objects and Reasons, when I pressed the argument that even the Preamble was not considered, the difficulty arose and I answered that. In the original statement of objects and reasons, we find the matter that the need had long been felt of investing the High Court with the original jurisdiction, to be exercised in special circumstances, so as to enable the High Court to try original cases, civil and criminal. At the time the bill was read in the Assembly for the first time, the mover said.

"The investment of extraordinary original jurisdiction in the High Court,"

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[Sadasyatilaka T. K. Velu Pillai]

It was not stated then that the new jurisdiction was to be exercised only in extraordinary circumstances. The President observed that it was extraordinary original jurisdiction which was sought to be conferred. He also said that the fact is that the High Court should be able to try important and noteworthy cases in the capital city according to the most modern methods and thus improve the quality of the administration of justice. He also made mention of the necessity of a law enabling the court to issue the writ of Mandamus, the Habeous Corpus jurisdiction and the Certiorari jurisdiction. From what fell from the Chair the mover of the bill said in his reply that as the statement of objects and reasons mentioned 'original jurisdiction to be exercised in special circumstances' it means extraordinary original jurisdiction. Sir, I have taken the quotation from the proceedings published and it refers to 'certain special circumstances' and ,whether those words find a place there, that is the point.

PRESIDENT: That is not a fundamental point. The whole point is this. The honourable member is an experienced and astute lawyer. A motion for recommittal can be assimilated to an application for review of a judgment. The principles guiding the receipt of motion for review, or an application for review and *a fortiori* grant of review, involves two or three points A review of judgment is granted only if the original judgment or order has been passed under a fundamental misconception either of fact or of law or the course of its proceedings has been vitiated by what lawyers according to language well known to them and sanctified by precedence described as material irregularity. Similarily in motions of recommittal, this House should be satisfied that the select committee that has worked upon this bill has arrived at a decision fundamentally erroneous either on a matter of fact or of law or has acted in its proceedings and during the course of its proceedings with material irregularity. I feel that the honourable member will address himself on that point.

SADASYATILAKA T. K. VELU PILLAI: In our country there is no provision for parallel resolutions and Instrument of Instructions as we have in the House of Commons or the House of Lords. What we have here is the discussion in the House recorded in proper manner and the President's view is entitled to weigh. In this connection the President has expressly stated—it is not only as the Head of the Administration but also as a Lawyer that he makes the statement—and the members of the Select Committee ought to have taken note of it. It is said "it would be better, I think, to define as far as possible the powers without at the same time fettering the discretion of the High Court Judges undertaking the trial of cases in which, broadly speaking, an interference could be had." Then again it is said "I am sure that when the matter comes before the Select Committee, the Legal Remembrancer will carefully look into the whole matter and help the Select Committee in framing a proper and satisfactory Bill for the consideration of the House." My submission is that it is an express desire, an expression of value, that has not been taken into consideration by the Legal Remembrancer.

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MR. K. G. KUNJUKRISHNA PILLAI: What was it that was not taken into consideration ?

SADASYATILAKA T. K. VELU PILLAI: There are various matters. On page 252 it is stated "I am sure that when the matter comes before the Select Committee, the Legal Remembrancer will carefully look into the whole matter and help the Select Committee in framing a proper and a satisfactory Bill for the consideration of the House." On page 256 you have said "I feel I shall make clear one or two matters. I am making the observations so that they may be used when this Bill or any other consolidated Bill of this nature is considered." Again on page 257 it is stated—"But it is in order to have a kind of interim jurisdiction so as to handicap the judges of to-day from asserting such inherent rights, that this legislation is sought to be invoked now. I believe—though I have never been a judge—that it would be open for the High Court with this enactment modified when necessary and by virtue of this extraordinary original jurisdiction vested in the High Court, to have the right to exercise in matters such as the habeas corpus, mandamus, the certiorari, inherent jurisdiction to the same extent that the King's bench, the Criminal Court or the High Court in England have been exercising." Otherwise there will be no point. The kind of change contemplated is based upon the practice of English Courts. The Chair expressed this idea and various other points were raised by other speakers.

PRESIDENT: I think I must make my position more clear. What I endeavoured to say then was this: There is no question as to the necessity for a consolidated enactment. What I said that this House need not wait until then, that at the present stage there was need for an interim legislation, and that this interim legislation might deal with what is called original jurisdiction of an extraordinary type and that such original jurisdiction involves the exercise and has been the origin elsewhere of the exercise of the jurisdiction known as habeas corpus, mandamus, certiorari, etc. What I said was that if you conferred upon the High Court extraordinary original jurisdiction as now contemplated that would be sufficient to serve the present need and those needs would also involve the exercise, when necessary, of such special jurisdictions. Whether over and above that further enlargement of jurisdiction, a more comprehensive legislation was necessary, would be a matter for subsequent discussion and deliberation. I will read that portion.—

> "I believe—though I have never been a judge—that it would be open for the High Court with this enactment modified when necessary and by virtue of this extraordinary original jurisdiction vested in the High Court, to have the right to exercise in matters such as the habeas corpus, mandamus, the certiorari, inherent jurisdiction to this same extent that the King's Bench, the Criminal Court or the High Court in England have been exercising."

Let me be perfectly clear and as the honourable member has taken rather a strong line, let me make the contention of the Chair on

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[President]

that occasion clear. The President was not then speaking as President. Let it not be taken that that was a ruling binding on anybody. This House had perfect liberty to say that that view of the law is unsound and that therefore they will not accept it. What I then endeavoured to say was that the Select Committee had been constituted for the purpose of dealing with this Bill, or drafting and consolidating an amending bill dealing with the whole question of the jurisdiction of the Courts of the State. It is a Bill designed to meet a particular need or a long felt need. That need is that there are a number of important cases which may, with advantage, be tried by the High Court, thereby shortening the length of trial setting an example to other judiciary. When I was at the Bar there were about four cases in which extraordinary jurisdiction was exercised by the Madras High Court. I was, more or less, responsible for bringing up those cases. One was with regard to the Besant case, against the Madras Government. These jurisdictions are very rarely exercised and the argument in the Besant case was whether it should be tried at Chinglepet, and whether it should be by a single judge in which case it would take a lot of time. So it was put to the High Court that they might exercise extraordinary original jurisdiction and instead of one judge sitting in judgment it was suggested that three judges might sit and try the case and finish it so that it might go to the Privy Council, if necessary. Thereafter there were only three or four cases of that sort. Soon after I came here as Dewan I learnt of the Syrian Church case in which incidentally I have made 25 to 30 thousand rupees. Another was the Siva-Giri Mutt case. Although 15 years have elapsed, it is still at the stage of issue. But if it were tried in the High Court, in about three days the case could have been finished. But the case has not yet been started. Matters of great strategy and items of property worth so many thousands of rupees are involved. Important matters are pending decision and the community has been split into two. Very many of these things were brought to the notice of the Government and therefore it was thought that a legislation may be brought into being which would empower the High Court to deal with such cases. It is for this purpose that this legislation was introduced and it is from that point of view that the Select Committee worked and it is from that point of view that I want the honourable members to deal with the matter.

SADASYATILAKA T. K. VELU PILLAI: So the easiest thing will be to refer to some other sentence.

PRESIDENT: What is the honourable member's observation with regard to my statement?

SADASYATILAKA T. K. VELU PILLAI: It is a very delicate matter.

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PRESIDENT: I said it was not the statement of the President as such. It was a statement of a member of this House speaking purely as a lawyer expecting to receive as hard comments as he ever received as a lawyer from the fellow lawyers.

SADASYATILAKA T. K. VELU PILLAI: My difficulty is not that it should be considered as a ruling from the Chair. But it is an opinion which is more prominent than coming from any one of us.

PRESIDENT: If you take that line, then you have got a case against me.....

SADASYATILAKA T. K. VELU PILLAI: I am always fair to my opponent, Sir.

PRESIDENT: Then you will find your client getting angry with you.

SADASYATILAKA T. K. VELU PILLAI: Your speech was not made available to us earlier. It was given to us with such a haste that I was not able to go through it. A meeting of the Select Committee was convened; the Select Committee met and it was put to us whether we had got the speeches of the members. I say whether this kind of.....

PRESIDENT: After all we are lawyers. Some lawyers prefer to speak straightaway. Others prefer in interrupting arguments.

SADASYATILAKA T. K. VELU PILLAI: I say that it was not made available as it was not printed. My submission is that without the text of that speech before the committee what is the meaning of the Select Committee proceeding into the Bill? On page 255 it is stated:—

> "And that is exactly what is intended in the Bill, Sir. I concede that ordinary original jurisdiction was deliberately omitted from the Bill, as it was not thought that the time has come when we should think of investing the High Court with ordinary original jurisdiction as obtains at present in the High Court of Madras, Bombay or Calcutta."

Then again, Sir, on the close of that page,—

> "Sir, I heard my friend saying that the Bill has to go before the Select Committee for discussion. Does it mean that the Select Committee shall retain the right to amend or rectify defects, if any, in the Bill. As far as I know, though the right of discussion about a bill is conceded to a Select Committee, as a matter of fact, it may have no right to amend the principles of a bill, which has been accepted by the House. I cannot, therefore, understand the views of my friend."

Then on page 256 it can be seen:—

> "Mr. K. G. Kunjukrishna Pillai: The real issue at present is whether the principle of the bill should be confirmed or not. My friend, Mr. Velu Pillai, has raised a number of issues, and I submitted in reply that those are issues which may be considered by the Select Committee."

On reading you will find, Sir, that a number of points were raised and the Legal Remembrancer has noticed and he said that all the issues raised would be considered. In the light of what you have said,

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[Sadasyatilaka T. K. Velu Pillai.]

it is very difficult to believe that whenever you speak, you speak without taking into consideration all the significance of those words. But we are accustomed to see that when you make a speech the ideas are put very clearly. Though it is not usual there seems to be some oversight in the language.

PRESIDENT: What is your other point?

SADASYATILAKA T. K. VELU PILLAI: I feel I shall make clear one or two matters.

There is a very patent fact that I raised and the Legal Remembrancer understood that. I know, Sir, I am doing uphill work. Now, my submission is that an instruction, or what is equal to an instruction, from this House, has not been considered.

PRESIDENT: Order, order. The point is this. I said that this Bill is a limited Bill. It is no doubt necessary or may be necessary to have a comprehensive Bill. It is stated on page 257 that the idea underlying the ultimate consolidated enactment is that there should be a delegation by the Sovereign of the judicial functions to a supreme authority which should exercise it in all matters. But in order to have a kind of interim jurisdiction so as not to handicap the judges of to-day from asserting such inherent rights, this legislation is sought to be invoked now.

SADASYATILAKA T. K. VELU PILLAI: I have nothing more to say on that point. Then the next point is that the High Court Act, as originally passed by the Sovereign, contemplated only appellate jurisdiction.

PRESIDENT: I rule that out of order.

SADASYATILAKA T. K. VELU PILLAI: We have not been given a copy of the Dewan's speech.

PRESIDENT: Order, order. The fact that the honourable member was not supplied with a copy of the speech would not make the Select Committee work without jurisdiction.

SADASYATILAKA T. K. VELU PILLAI: As regards extraordinary jurisdiction the original Act passed by His Highness the Maharaja contemplates only civil appeals and criminal appeals. Now I can understand His Highness the Maharaja giving greater powers. But under the Act in British India, there is provision with regard to jurisdiction. I have got the extracts here.

PRESIDENT: That is not a point of order.

SADASYATILAKA T. K. VELU PILLAI: I wish to submit to you that this being a very important matter.....

PRESIDENT: Order, order. That is not a question for recommittal. The motion for recommittal is out of order.

MR. K. G. KUNJUKRISHNA PILLAI: I pray that the Report and the Bill be taken into consideration.

MR. A. LAKSHMINARAYANA AYYAR: I second it.

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MR. M. R. NARAYANA PILLAI: Sir, I move, for the whole clause as revised, substitute the following, *viz.*:-

"(viii) for the transfer to its own file for trial and disposal any suit or other proceeding but not including proceeding in execution of decrees, from any Civil Court subordinate to the High Court provided that the High Court is satisfied for reasons to be recorded, that such suit or other proceeding can be tried more expeditiously by the High Court.

(ix) for the transfer of any enquiry, trial or other proceeding from any Criminal Court subordinate to the High Court provided that the High Court is satisfied for reasons to be recorded, that such enquiry, trial or other proceeding can be tried more expeditiously by the High Court."

MR. K. G. KUNJUKRISHNA PILLAI: A clause for substitution is out of order. I refer to the *Rulings from the Chair* published by Mr. M. N. Parameswaran Pillai, page 61.

MR. M. R. NARAYANA PILLAI: Without taking away the meaning of the clause and for explaining the circumstances under which cases will have to be taken to the High Court, I have proposed this amendment.

PRESIDENT: Very well, go on.

MR. M. R. NARAYANA PILLAI: With regard to the second portion of it, conferring original jurisdiction on the High Court, cannot include retransfer. That is why I proposed the omission of sub-clause viii (b).

MR. K. KUNJU PANICKER: I second it.

MR. C. JABAMANY NADAR: Sir, I oppose the amendment. My reason is simple. The honourable member wants to substitute only those portions which are found in the amendment. Unless we have the first portion of the clause in the amendment the whole thing will look absurd. He proposes a substitution of only the second clause. That means sub-clauses (viii) and (ix) will stand. So that the amendment as it is will not carry us anywhere and it may even look absurd.

MR. M. R. NARAYANA PILLAI: I shall explain this to Mr. Jebamony Nadar. By our intention to confer on the High Court any special power we do not take away the powers of transfer of cases to any subordinate courts, as they exist already. So also with regard to appeal. An appeal is not an original case. The jurisdiction that is sought to be conferred on the High Court for disposing of appeals does not come within the purview of the objects of the bill, as we propose to give powers to the High Court to try original cases-civil and criminal.

MR. C. JABAMONY NADAR: The amendment says that the substitution should be made for the whole clause as revised.

PRESIDENT: In other words, your point is that parts (viii) and (ix) should not be deleted.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I oppose the amendment. This amendment will have the effect of taking away a jurisdiction now vested in the High Court to transfer appeals.

MR. M. R. NARAYANA PILLAI: The effect will not be like that. So far as the appeals in the High Court are concerned we are not worried.

PRESIDENT: You will have to be worried. I will tell you why. The bill says that in section 7 of the High Court Act of 1099 sub-clauses (viii) and (ix) shall be amended. What you say is that the whole clause as revised will go and what you have proposed for (viii) and (ix) shall be substituted.

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MR. M. R. NARAYANA PILLAI: No, Sir. I am still making provision for the other clauses. I am only anxious that the portions relating to appeals should not be there.

MR. K. P. ABRAHAM: May I know what the member has to say regarding the transfer of cases by the High Court from one District Court to another?

MR. M. R. NARAYANA PILLAI: I am not saying anything about that. The provision is there.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I am afraid, my honourable friend has not understood the provision of section 7 of the High Court Act. Sub sections (viii) and (ix) of the existing section relate to appeals from one subordinate court to another. I have included that in the present clause of the bill. My honourable friend is in favour of omitting the word altogether, so that if the amendment is accepted, the High Court will not have any power for hearing appeals.

MR. M. R. NARAYANA PILLAI: May I explain, Sir? When the Legal Remembrancer says that all the powers already conferred on the High Court to transfer an appeal from one court to another is taken away, he is wrong. The proposed amendment does not mean that. All that we are concerned with is the new power sought to be conferred on the High Court. Any appeal pending in a lower court may be transferred to the High Court, or to any other court by the High Court. All that I am saying is that you may take any case from a lower court to the High Court and dispose of it, but do not send a case back to another lower court from the High Court.

MR. E. SUBRAMONIA AIYAR: Sir, there seems to be some necessity for clarification. At present the High Court has got certain powers under the Criminal Procedure Code and the Civil Procedure Code. There are certain sections in the Civil Procedure Code which say that a suit pending in one court may be transferred from that court to another court of competent jurisdiction. A suit pending in one Munsiff's court may be transferred to another Munsiff's court or even to a District Court. But the High Court has not got that power to transfer that suit for trial to itself. But that is not the matter now before us. In the exercise of that power which is already vested in it under the Civil Procedure Code, of transferring a suit from one subordinate court to another, the constitution of the High Court requires that an application must be made to the High Court and that a single Judge shall deal with it. Again with reference to appeals that pratice is adopted; an appeal from the District Caurt, Nagercoil may be transferred to the District Court, Trivandrum, and may also be taken to the High Court itself. For reasons which may appear satisfactory and sufficient, an appeal pending in the District Court may be heard and disposed of even now. That jurisdiction exists even now. The objection of my friend, Mr. Narayana pillai, seems to be that since there is that power already, why not delete that in the new provision. In regard to that I say there is a difficulty. For the exercise of the power there must be an application. That application has to be dealt with by a single Judge of the

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High Court. So a single Judge has got the power of dealing with those applications, of transferring them from one court to another, or to itself. Now for the exercise of the power vested in the High Court, who can deal with it? Is it the Division Bench, or the Full Bench? In order to get rid of that difficulty this amendment gives those powers. The powers already given under the Civil and Criminal Procedure Codes are not taken away. Only additional powers are given for transferring proceedings to itself *viz.* execution proceedings and other matters which the High Court now believes it is not competent to deal with. Viewed in that light, I do not think that the word "Appeal" should be taken away. It may create a gap if that word is taken away. The only other thing is when a case has been transferred to it self by a High Court, in the case of appeal should the High Court transfer it to another subordinate courts? Once it has assumed jurisdiction to dispose of the matter, should we give it power to transfer to another court? If a case was so important that it should be tried by the High Court and then suppose there is a very irrelevant and unimportant matter coming up then the High Court may refer the case to the District Court. That is a very minor matter which a High Court Judge can deal with in Chamber. Whether it should be vacated or not is a matter which requires the anxious consideration of the House. That is all that I have to say with regard to the amendment before the House.

MR. M. R. NARAYANA PILLAI: Sir, in view of the appeal made by such a learned Advocate as the last speaker, I accept that portion of the amendment. The word "Appeal" may be retained. When we have already taken the jurisdiction over the matter should we take into consideration the questions of transfer, retransfer and re-retransfer?

The amendment (No. 2) was then put and lost.

The question that clause 2 do stand part of the bill was put and carried. The clause was added to the bill.

Clause 3.

The question that clause 3 do stand part of the bill was put and carried. The clause was added to the bill.

Clause 4.

MR. M. R. NARAYANA PILLAI: Clause 4 reads, "During the annual recess of the High Court, a single Judge of the High Court acting as a Vacation Judge and during consecutive holidays of more than three days' duration, a single Judge of that Court to be nominated by the Chief Justice shall have all the powers" etc. I have recast it in the following way. In my humble opinion, it will look more like a piece of legislation. The original clause, starting with the words. "During the annual recess," without meaning anything evil, I must say, is something like writing an essay. So I sent up this amendment to this clause. And the amendment is,

> In clause 4, for the words '(1) During the annual recess..... presentable to the Subordinate Courts," substitute the following, viz., "A single Judge of the High Court acting as a Vacation Judge during the annual recess of the High Court or a single Judge nominated as such by the Chief Justice for consecutive holidays of more than three days' duration, shall have all the powers of the High Court but not including the powers of a Bench of Judges and for such purpose to receive appeals, plaints and applications ordinarily presentable only in Courts subordinate to the High Court."

I have explained the object of my sending up the amendment.

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MR. K. G. KUNJUKRISHNA PILLAI: I oppose the amendment of Mr. M. R. Narayana Pillai. The wording in the bill is taken from the existing Act of 1099 and it has had judicial sanction and judicial interpretation for the last twenty years. I personally prefer to follow that wording, to the wording which appears to my honourable friend to be the better. Therefore I oppose the motion.

The amendment was put and lost.

The question that clause 4 do stand part of the bill was put and carried.

The clause was added to the bill.

Clause 5.

The question that clause 5 do stand part of the bill was put and carried.

The Clause was added to the bill.

Clause 6.

MR. M. R. NARAYANA PILLAI: With regard to clause 6, from what I understood from the manner in which this Bill was introduced in the Assembly, and also from what I understood when the several Members spoke about it on the first day. I may say that I expected the word "record" would be omitted from the clause. That was the motive with which I raised the objection even at that time. Let us take it that this bill gives the power to the Government to call for records from the High Court and makes it mandatory on the High Court to send up the records. What is the Government going to do with the records? Have they the power to dispose of the records as they choose? With regard to the "returns" and "statements," the Legal Remembrancer said that, supposing that this house wants some information from the High Court as to the number of pending cases or anything like that, what the bill does is just to enable the Government to get it from there. So far as returns and statements are concerned I have no quarrel. But still, to have it as a mandatory clause of this bill, to say that the High Court "shall comply with any requisition from the Government," is carrying things too far. When the Government can do nothing with the "records," either by way of setting aside or by way of revising the judgements of the High Court, such a clause is not at all necessary in this Bill. It was stated here that the Letters Patent of some of the Courts in British India makes a similar provision. That may be explained by me in this way. When the records of one case in one Province have to be sent to the High Court in another Province, when so agreed to by the Provincial Governments, it is necessary to send these through the provincial governments to the respective Courts. The Government alone can send the records. And therefore it is that the word "records" finds a place in the Letters Patent.

PRESIDENT: As a matter of fact, it seems to be fairly clear that any suspicion that may arise that Government want to take undue advantage in a pending case to get information which could not otherwise be taken, should be cleared. Mr. K. P. Abraham's view seems to be something like that. Supposing there is a case which has a record filed in Court, which may contain very valuable information as a record of rights, and as a chronicle on certain matters which have taken

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place, which is essential for Government to have, Government should not have any sinister advantage over a private party. That is, Government should not, being a party to a case, suddenly ask for a record and get an advantage which an ordinary litigant would not have. That I have to make clear and I think Government could have no objection.

I think it is a very sound objection. I do not think Government, at any time, should have any rights as a Government, which a private party does not have.

MR. K. G. KUNJUKRISHNA PILLAI: The only thing that I should like to point out is this. I would slightly alter the amendment of Mr. K. P. Abraham to read thus "Records other than the records in pending cases, returns and statements.....".

MR. KOTTALIL P. ABRAHAM: In Clause 6, line 5, omit the comma after the word "records" and insert between the words "records" and "returns," the following words and a comma "other than those in pending cases." I accept the suggestion made by the Legal Remembrancer. My amendment would thus read, "other than the records in pending cases."

With the amendment, Clause 6 would read :—

> "18. The High Court shall comply with such requisition as may be made by Our Government for records other than the records in pending cases, returns and statements in such form and manner as Our Government may deem proper."

My object in introducing this change is rather apparent. In addition to the reasons stated by the Chair just now, I may also point out that in certain cases, or rather generally, when records in pending cases are called for by Government, the High Court may be tempted to send them readily to the Government. In that event, the case whose records are so sent will have to be delayed more than its usual course. To avoid such inconvenience and delay I suggest that records in pending cases should not be sent.

The amendment was seconded.

MR. N. RAMAKRISHNA PILLAI: What about the cases between private parties? Will the Government be justified for sending for these records?

MR. K. G. KUNJUKRISHNA PILLAI: Private cases also contain "records" as meant by the section.

MR. P. SUBRAMONIA AIYAR: I oppose the amendment for other reasons. We find, no doubt, that when this Clause was introduced, naturally it had created an apprehension in the minds of persons connected with the administration of justice. I am interested in maintaining the intigrity of the High Court and above all, that room must not be given for interference by any authority in the smooth and placid course of justice. I do not know why this provision was inserted when it did not exist before. So I searched for it. But it is not a new thing. It is found in the Letters Patent.....

PRESIDENT: In these very words.

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MR. E. SUBRAMONIA AIYAR: So I racked my brains to some extent. I do not want our High Court to be more independent than the High Courts of Madras, Bengal, Bombay, Rangoon, and other places. But what is the meaning of 'record ?'. I was not able to arrive at a decision. No doubt, 'in such form' may restrict and qualify it. Is it 'record' in a pending case or record of a case, because the words 'records', returns and statements' need not be records in the High Court. So I felt that, if the clause existed in the Letters Patent, the word 'record' must have had a restricted meaning.

PRESIDENT: In the Letters Patent, the word 'record' is used in the old Common Law sense, where every court constituted by His Majesty, is called a Court of Record.

MR. E. SUBRAMONIA AIYAR: For example, I will say, there are other 'records' here. It is a court of record.....

PRESIDENT: But at the same time that matter has been construed where all present controversy is ended by assuming that every document put into a High Court becomes a record.

MR. E. SUBRAMONIA AIYAR: We do not make that interpretation now.

PRESIDENT: Order, order. The expression 'Court of Record', which is the expression used to denote the High Court of Justice, in the Common Law and in terms of jurisdiction, says that, a court of record is seized of the records of the court and is the custodian of the records, and there are certain jurisdictions following that of the Judges of the Court etc. 'Record' it is an eternal chronicle of what is done in that court. And in order to construe that, various judges, especially in America, have come to the conclusion that the 'record' there means, whatever has ceased to be temporarily interesting from the point of view of the contending parties, but is a record indicating the continuity of the work of the Court as such.

MR. E. SUBRAMONIA AIYAR: I am very much enlightened by that observation. My fear is that by an amendment, the meaning of the word 'record' should not be amplified. I have no objection that chronicle of everything done in a Court.....

PRESIDENT: Order, order. That is why in all statutory enactments or modifications, some expressions which have been used by other jurisdictions and have acquired a kind of interpretation, are generally accepted by draftsmen on the principles analogous to stari-decisis. A certain group of words may mean one thing to Mr. E. Subramonia Aiyar and another thing to me. But if, for two, three or four hundred years, that expression has been in existence and has been commented upon by generations of lawyers and judges, then, as far as possible, those expressions will be kept up. It is from that point of view that the original expression was kept up. In the meantime, apprehensions were entertained that, in some kind of subtle and mischievous manner, any Government may take recourse to these and get hold of the documents, and utilize them for its own advantage. That

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is why, apparently, this is brought in. But the honourable member, Mr. E. Subramonia Aiyar, is prefectly right in saying that in regard to these things, when we are trying to amend what is a very well-known formula, there is the possibility of a new construction arising, which may not have been foreseen.

MR. E. SUBRAMONIA AIYAR : I am grateful to the Chair for expressing my view clearly. The word 'record' has got an accepted significance.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI : May I know whether the honourable member has any objection to using the words 'records of the High Court' as distinguished from the words 'records in the High Court'?

MR. E. SUBRAMONIA AIYAR : The only observation I have to make is this. We can express our thoughts only in some language or other. The word 'record' is there. It has been in existence in other enactments for a long time. When we attempt to say 'records of court, other than in pending cases, we are giving the word a loose significance, which we should not do.

PRESIDENT : We find an interpretation of this very word 'record' in a judgment of Chief Justice Marshall.

MR. E. SUBRAMONIA AIYAR : My view is that certain powers must be vested in the Government, because when we come to this clause there is no necessity to consider the High Court as a separate body. In fact, it is only a branch performing one of the triple functions of the Government, namely administration, control and judicial. As a branch of the Government, the records of the High Court which chronicle certain facts and which contain useful information, may be made available to the Government.

MR. N. RAMAKRISHNA PILLAI : What is the difference between the 'records of the court' and 'records made by the court'?

MR. E. SUBRAMONIA AIYAR : To me it appears there is certainly a difference when we begin to classify 'records of court', 'records made by one court', 'records in court', which mean different things at different times. Take, for instance, a case in which I am a party or witness, and I have produced a title deed. The case is over and I have not taken back my title deed. When I take it back it need be thought that the Government may call for it. In a pending case, I ask, do the honourable members propose to invest power with the Government to call for any record that has been filed in a case?

PRESIDENT : In this connection I may say one instance in which I was concerned in. I should not be considered as trespassing. At a certain time in the history of the Administration of the East India Company, all proceedings of Government were signed for the Governor and members of the Executive Council who were then together exercising co-equal powers, Governor being only the President of the Council. That practice was given up at a certain period when a Secretary to Government, or Chief Secretary to Government, began to issue the proceedings of the East India Company. A certain document came to court purporting to be a confiscation of a zemindari in.

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[President.]

the Madras Presidency with a stipulation contained in the document of re-delivery of the zemindari at the expiry of 100 years, the specified individual not belonging to the family of the original grantee. That was supposed to have been signed by the Governor and members of the Executive Council. The contention was that on the date when that document was in existence, the Governors and the members of the Council had given up their right to sign. That record was in the High Court and it so happened that in order to substantiate the truth of the matter, that record had to be scrutinised. In one sense that record became the subject of subsequent litigation where the Government raised that that was not a genuine document. The record had to be sent for. The question was not raised, but it was argued, as if in a court of law, before the Governor-in-Council, whether the Government could call for that record of the Chartered High Court. At that time this record formed part of the record of the Chartered High Court that was actually before the present Government of India Act came into existence. It was considered in that way. That is the kind of record. A record would not mean only a chronicle of what the judges did on an occasion. To a court it will mean a record existing in the archives of the court house.

MR. E. SUBRAMONIA AIYAR: No doubt, that may be an illustrative case.

PRESIDENT: I cannot say whether the view taken by the Governor-in-Council or the Government at that time was correct or not.

MR. E. SUBRAMONIA AIYAR: I apprehend. Personally my own view is I cannot confer upon Government that power.

PRESIDENT: As a matter of fact, that is why I corrected myself by saying that I cannot say whether that decision was correct or not.

MR. E. SUBRAMONIA AIYAR: If the words "records in a pending case" were put in, it gives greater strength to the view propounded by the President. Therefore on that very short ground, I cannot accept that. Let us adhere to the word 'record' which has acquired a legal significance. Let us leave it to the good sense of the High Court. It must be left to the party to fight out the matter in a court of law. If my title deed is taken back by me, Government should not call for the production of it. According to me it is open to me to say that the Government should have no power in the matter. I am entitled to take a judicial decision on that point. Let us not preclude the party from fighting the issue. A record of the High Court may mean a judgment or order or A diary or B diary and so on. All that is bound by law, there are duties cast on the High Court under the law and they should not be stifled with.

MR. KOTTALIL P. ABRAHAM: Has any High Court the power to interpret that?

MR. E. SUBRAMONIA AIYAR: When we use the word 'record' in a pending case, that has a larger significance. Any piece of paper can be construed as a record. There is no scope for a limited and restricted interpretation. I am for retaining the word 'record' to have the accepted significance. It is open to the party to say that it is not a record which the Government can call for. Therefore the High Court alone must decide the matter.

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MR. M. R. NARAYANA PILLAI: May I know whether our High Court has any power to call for any record from Government which was once taken from the High Court so as to be brought back to its own file?

MR. E. SUBRAMONIA AIYAR: As far as my practice goes, our High Court or any subordinate court have got power to call for any record withheld by Government. But the Government may say that they have not got such a record or something like that. All that I say is, the High Court has got the power. Interpretation of the word must go by the context.

MR. M. R. NARAYANA PILLAI: May I know if the High Court is not competent who else is to interpret the word 'record'?

MR. E. SUBRAMONIA AIYAR: It is certainly the High Court. In most of the enactments that expression occurs. In every enactment a particular word will have to be explained with reference to a particular context. In the destruction of records, it may give a different meaning. Every time that word occurs it has to be interpreted as promoting the best interests of that Act. We are now concerned with the High Court Act. The power is sought to be given to Government. It is for the High Court to apply that. The meaning of the word is to be decided with reference to its accepted significance, and the acquired legal significance. The word is a legal term. It is used by lawyers and others. It may have a more restricted meaning than the ordinary meaning. A record may mean any piece of paper found in the High Court. With reference to Crown Grants where the Government are equally interested, it would relate to Crown Grant. If it relates to Government they will be interested. If it relates to exparte, then that party will be interested. I do not want any conflict to arise between the High Court and the Government in regard to the interpretation of this word. All that I would say is, do not give the power to Government but leave it for the decision of the High Court. The vesting of such a power with Government will give rise to great reactions. There is also the rule-making power for the High Court.

PRESIDENT: There is one more aspect for consideration. The High Court may be trusted and that is what finally seems to be the deciding aspect of the matter. The High Court may be trusted as not facile or too facile to hand over to Government documents which it may be imagined that the Government might require for its own purposes unconnected with anything fundamental or legitimate. Leaving it as it is, it may perhaps enable the High Court to rely upon the practice of jurisdictions not only in India but elsewhere because, this word 'record' is a word which is common to American Jurisprudence, English Jurisprudence, and to all the High Courts in the country and it is being commented upon and cases decided on the basis of the word 'record' in a number of cases. The High Court and those who are in the High Court, and the lawyers may be trusted if the Government's application is illegitimate in any particular case, to inform the High Court not to yield to that demand of Government. The question has been raised as to whether there is any procedure for parties to be heard. I trust that the High Court will frame rules for that purpose.

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[President]

In other words, Government do not want the party to get an order from the High Court or by an order addressed to the High Court to get hold of documents which it might not otherwise be entitled to get. Let both parties be heard by somebody on behalf of Government, and let there be somebody, and on behalf of the party also. If he has good reasons to state that that document should not leave the High Court but to come into the hands of Government, that will be considered by the High Court, in which case it is best to leave the privileges of the High Court *vis-a-vis* Government into the hands of the High Court itself. As Mr. Subramonia Aiyar rightly pointed out once we notice the words whose connotation, whose interpretation, is not as is laid down by a *catena* of cases of precedence, we do not know what new complications may arise or that this expression, as it is here, has been sanctioned by the Letters Patents, for, the Letters Patent of the High Court came into existence in 1861 in some cases and 1865 in some others. It has been in existence for 82 years and it has been consistently systematised and commented upon. Perhaps it would be safer by mentioning this, my opinion, as a lawyer and not as a ruling. It is safe to leave it in the form in which it is generally used.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: We have found that in several rulings of the High Court the proceedings of theLegislature are not taken as the authority in the matter of interpretation of statutes and the Chairman has been pleased to assure us that the High Court will respect the authority of the Legislature.

PRESIDENT: All that I can now say is that every High Court has to frame its rules when that difficulty could be obviated.

MR. E. SUBRAMONIA AIYAR: The last word of the High Court has not been said on the proceedings of the Legislature.

SADASYATILAKA T. K. VELU PILLAI: Sir, the matter, as has been pointed out, is a very difficult one, and, ultimately we may have to depend upon the wisdom of judicial interpretation. But at the same time, Sir, even though the High Court have to pass rules and have the rule-making power, they may so use it in a manner which may not be of advantage to the public. In modern times, the tendency is for the rule-making power to be utilised and made to function very much more than the legislature intends. I have in my hands an authoritative book. I was going to read carefully for various purposes and that seems to be the besetting sin of all. In page 3 it is said as follows:

PRESIDENT: I think it is in Chapter 3 of that book. It is stated that subordinate rule-making authorities make rules so as to neutralise the effect of Parliamentary intentions. Subsequent to that the whole matter has been examined by a non-lawyer, but a man who is more learned than a lawyer, Harold Lasky.

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SADASYATILAKA T. K. VELU PILLAI: I wish to say that in England there are certain safeguards also. Most of the statutes which invest bodies, Judiciary or otherwise, with powers of passing.....

PRESIDENT: But this is a direct rule-making authority.

SADASYATILAKA T. K. VELU PILLAI: It is under legislative power.

PRESIDENT: It has rule-making power under its own statute.

SADASYATILAKA T. K. VELU PILLAI: I wish to make this point clear, that in England, whenever any authority is invested with the power of making rules, there is a provision that those rules shall be made before both Houses of Parliament within forty days, or in some cases, a lesser number of days. A resolution is passed requesting the approval of those rules by His Majesty-in-Council. Even under the Civil Procedure Code the High Court has power. But this House has no power to control the ambit of those rules. It may be that some of them are mistaken and then, the Government will not be able to call them to order, nor will it be able for the Legislature to call them to order, so that in making the rules, the High Court often will adhere to the more favourable interpretation when it is called to order. I am speaking subject to correction.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know whether in the matter of making rules, we are not governed by the provisions contained in the General Clause Act of Travancore?

SADASYATHLAKA T. K. VELU PILLAI: The General Clause Act of Travancore is well known. It is only an Interpretation Act. It does not invest powers on anybody.

PRESIDENT: I think we are spending time on matters for which an easy solution can be found. Assume for a moment that Mr. T. K. Velu Pillai's contention is correct; assume for a moment that the High Court's power of passing rules is not subject directly to the jurisdiction either of this House or of the Government. This House has a superior legislative power and can bring in amendments when the High Court takes away power under this clause.

SADASYATILAKA T. K. VELU PILLAI: About six months ago a mistake in the Registration Act was noticed and I happened to appear for a party in that case. Although the authority of the Privy Council ruling was cited, our honourable High Court took a view against the Privy Council. Ultimately the Legislature had to intervene. In the meanwhile, how many people had to suffer? So, what I am saying is that as far as possible, do not give chances for mis-interpretation of statutes.

PRESIDENT: But how many millions of people have suffered on account of blatant errors of the Privy Council in regard to Hindu Law?

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SADASYATILAKA T. K. VELU PILLAI: At one time the Privy Council used to refer to a certain caste as the Iyer community. ..... I want to make one suggestion. Comments may be made on either side. Proceedings of the Legislature may not be noticed by the courts of law. In Travancore, there are some judges who refer in extenso to the proceedings of the Legislature, while certain others do not.

PRESIDENT: The uncertainty of the law is the delight of the lawyer. For instance take the question of the Preamble. Some judges say "the Preamble need not be looked into: I will only look into the Sections whatever be the intention of the Legislature." But there are other judges who will go through the whole proceedings and find out from the Section the intention of the Legislature. And that is why we are where we are.

SADASYATILAKA T. K. VELU PILLAI: The learned judges of the High Court would try to take views of the law which it will be difficult for contemporary opinion to follow :—

MR. E. SUBRAMONIA AIYAR: Will not the judiciary reflect contemporary opinion?

SADASYATILAKA T. K. VELU PILLAI: We want the judiciary to be more robust, and to keep the records, returns and statements in such form as our Government may deem proper. When the Government make a request for a document, the party which is interested in obstructing will not have any notice. So the provision that notice should be given to the parties is absolutely necessary. Unless that is done, there is no chance of the party ever knowing of the fact. The communication of the Government is secret, and before the party wakes up in the morning he will find that Government records have gone from the control of the High Court.

MR. S. CHATTANATHA KARAYALAR: Sir, to me it occurs that the whole difficulty arises because of an apprehension in the minds of several honourable members that the word 'record' may be interpreted in two ways; either in the ordinary sense in which it is interpreted by the lay-man or in the technical or legal sense on which the honourable member, Mr. E. Subramonia Iyer spoke at length. If we can proceed on the assumption that the word 'record' will be interpreted in the sense in which it is used in Letters Patent or the High Court Acts, then there will be no difficulty at all. But, as I said, the difficulty arises because of an apprehension in the minds of some of the honourable members. Our duty is to make the meaning of the word as clear as possible so that there may not be any difficulty in its interpretation. Therefore I am prepared to lend my support to the amendment that has been moved.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, this section is taken verbatim from the Letters Patent in British India and the word 'record' is used there. I have carefully examined the meaning of the

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word. I have referred to the Black's Dictionary, Wharton's Dictionary and other Lexicons, and I find that the interpretation is the same as that explained by Mr. E. Subramonia Iyer. When the Select Committee met, Mr. E. Subramonia Iyer explained it and the Committee accepted it. But if the House is apprehensive they may make an amendment, but even then, the position will be the same. The word 'record' will be interpreted in the same way. Therefore, in view of the explanation given by Mr. E. Subramonia Iyer, my position is that the Section as it now stands may be accepted.

The amendment was put and lost.

The Clause was put and carried.

Title and Preamble.

The question that the Title and Preamble do form part of the Bill was put and carried.

The Title and Preamble were added to the Bill.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I move that in Clause 1 (i) after the figures "111," the figure "9" may be added.

MR. A. LAKSHMINARAYANA AYYAR: I second it.

The motion was put and carried.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I move that the Bill be passed.

The motion was put and carried.

THE CIVIL PROCEDURE CODE (*Amendment*) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to present the report of the Select Committee on the Civil Procedure Code (Amendment) Bill. The only section that has been amended so as to give effect to the new jurisdiction to the High Court is Section 23 of the Act. I move that the Bill be taken into consideration.

MR. A. LAKSHMINARAYANA AYYAR: I second it.

Clauses 1 & 2.

The question that Clauses 1 and 2 do form part of the Bill was put and carried.

The Clauses were added to the Bill.

Preamble and Title.

The question that the Preamble and Title do form part of the Bill was put and carried.

The Preamble and Title were added to the Bill.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I move that in sub-clause (1) of Clause 1 after the figures "111" insert the figure "9".

MR. A. LAKSHMINARAYANA AYYAR: I second it.

The amendment was put and carried.

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